

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

(15)

CHARLES ISEZEE,
Plaintiff,

v.

W. CONWAY BUSHEY, et al.,
Defendants.

Civil Action No.
FILED
HARRISBURG, PA CV-00-0577

FEB 1 2001

MARY E. D'ANDREA, CLERK
Per [Signature] Deputy Clerk

SUPPLEMENTAL BRIEF FOR MOTION TO COMPEL DISCOVERY

The following is the disputed discovery material and its relevance:

1. Job descriptions of defendants and each of them.

Relevant because plaintiff must know the responsibilities and qualifications for each defendant's position regarding, for example, grievance review, disciplinary review, administrative review, appeal review, etc. Without them a defendant can claim that it was not his job and plaintiff has no way to impeach the witness or otherwise challenge his veracity/credibility. ~~Plaintiff's prison file~~ The court should note that plaintiff has, in the past, had numerous job descriptions of upper/lower echelon DOC employees' positions.

2. Plaintiff's prison file

The court is well aware that the defendants have stolen all of plaintiff's documentation concerning this matter. Consequently, plaintiff needs copy of same to get copies of misconduct/administrative reports, grievances, appeals, parole recommendations, request forms, investigation reports, etc. regarding this matter.

3. Rules/policies/procedures/Memos/Manuals concerning procedures to secure access to prison/mailroom/dental/parole records,

Relevant because plaintiff avers that his files contain false data and the defendants will claim that he could have followed some procedure they have to correct it.

4. Medical Records

Relevant because mental health and psych. data which is false is in files and plaintiff needs access to them. The court should note that plaintiff did have them until stolen by defendants.

5. Parole files

Relevant because contains false data and "John Doe" defendants true identities

6. Statistical data concerning repeat offenders, prisoners receiving favorable parole review/recommendation, recidivism rate, rehabilitation success rates, etc.

Relevant because defendants continually claim that all their actions were for the rehabilitation of plaintiff when in fact, that is not true because most prisoners who receive favorable parole review come back to prison. The rehabilitation success rate of the DOC is key because the parole board almost never paroles a prisoner, especially a Black prisoner, without its recommendation. The PBPP almost exclusively defers to the DOC whose criteria for favorable parole recommendation has absolutely no positive correlation with successful integration of a prisoner into society. In fact, it has been known for decades that there is no correlation between behavior in prison and behavior out of prison. U.S. ex rel Johnson v. Chairman 500 F.2d 925 (2d Cir. 1974); Kohlman v. Boston 380 F.Supp. 1073 (D. Conn. 1974). In essence, plaintiff needs the discovery to prove that the defendants' criteria for parole are illogical, nonsensical, ineffective, inefficient and capricious and arbitrary. The statistical data exists.

7. Interrogatories (attached).

They are relevant because plaintiff avers that he was denied parole because of false data and for retaliatory reasons. The answers to the interrogatories would provide admissible evidence which supports plaintiff's averments.

in his complaint.

Date: January 30, 2001

Respectfully submitted

Charles Isola

Charles Isola
4M-9320, 1 Kelley Dr.
Coal Twp, PA 17866

FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CHARLES ISELEY,
Plaintiff,

v.

W. CONWAY BUSHEY, et al.,
Defendants.

Civil Action No.

1:00-cv-00577

INTERROGATORIES TO DEFENDANT BUSHEY

Pursuant to Rule 33, FRCP, plaintiff submits the following interrogatories. You are directed to answer each of the interrogatories in writing under oath within thirty days of service:

1. Explain why, exactly, plaintiff must receive a favorable DOC recommendation before ~~he~~ may become eligible for parole release.
2. Explain exactly why plaintiff's misconduct reports bar him from obtaining parole release.
3. What are the PBPP's obligations/responsibilities to the DOC?
4. State exactly what the criteria are for determining whether a prisoner is suitable for parole release.
5. Explain exactly what the PBPP's duties/obligations/responsibilities are to its client (i.e., plaintiff).
6. Explain exactly what the policies/procedures/rules/practices are for investigating asserted false/inaccurate data in a client's records/files.
7. Explain exactly what the PBPP's penological goals/procedures are.

8. State exactly what the PBPP's penological goals/procedures are.
9. State exactly why plaintiff was not reviewed at the minimum expiration of any of his sentences (i.e., his concurrent sentences, his consecutive sentence, his aggregated sentence).
10. State exactly how plaintiff could be serving a 12 1/2 to 25 year sentence after 1998 when he served the entirety of all his sentences at that juncture, save one (i.e., plaintiff maxed out all his 15 year sentences and his 2 year sentence maximums).
11. State exactly why plaintiff was denied parole each time explaining in detail the rationale and reasons for the decisions.
12. State the policies/procedures followed to corroborate the accuracy of plaintiff's records/files.
13. State exactly what the penological/rehabilitative justifications are for denying plaintiff medical care for being beyond his minimum sentence.
14. Provide the true identities for any and all defendants who are not properly identified in the complaint.
15. ~~State and~~ Define exactly what good prison adjustment is.
16. Define exactly what poor prison adjustment is.
17. Define exactly what substance abuse is.
18. State exactly what plaintiff's parole rights are pursuant to state/federal law and state/board regulations/policies/rules/procedures/etc.

19. Approximately what percentage of prisoners in the past five years were granted parole without favorable DOC recommendation?

20. How useful and accurate ^{were} are plaintiff's psychiatric/psychological evaluation or refusal of same in denying parole to him?

Date: November 23, 2000

Respectfully submitted,

Charles Isely

Charles Isely

AM-9326, 1 Kelley Dr.

Coal Township, PA 17866

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants

:
:
:
:
:
:
:
:
:
:
:

No. 1:00-CV-00577
(Judge Kane)

RESPONSES TO INTERROGATORIES DIRECTED
TO DEFENDANT HORN

1. State exactly the reasons why plaintiff was denied a favorable parole recommendation at each relevant parole opportunity.

RESPONSE:

OBJECTION. Defendant Horn objects to this interrogatory as overbroad, burdensome, and irrelevant to plaintiff's claim; further it is unlikely to lead to the discovery of admissible evidence.

By way of further answer, inmates have no right, constitutional or otherwise, to parole. In situations where inmates will be reviewed by the Pennsylvania Board of Probation and Parole, the inmate is first reviewed by the Unit Management team along with the inmate's counselor. If the staff does not recommend parole, the inmate is generally advised of that fact and why.

I have no personal knowledge regarding the reasons why plaintiff was denied a favorable parole recommendation. As Secretary to the Department of Corrections, I am not involved in these decisions.

2. Can a prisoner be denied a favorable parole recommendation for being in the hole in administrative custody?

RESPONSE:

There is no set standard or written list of criteria that the Unit Management Team must follow in determining whether an inmate is recommended for parole. The circumstances surrounding an inmate's placement into the Restricted Housing Unit could certainly be relevant as to whether that inmate is given a parole recommendation.

3. State exactly what the criteria are for a prisoner to obtain a favorable parole recommendation.

RESPONSE:

There is no set standard or written list of criteria and the decision would vary from one inmate to another. The consideration would include but not be limited to the sentence imposed by the Court, the inmate's compliance with his or her prescriptive program plan and with Department Policies, rules and regulations as well as his or her institutional behavior.

4. Why was plaintiff given prescriptive program plans that he could not achieve or had already achieved?

RESPONSE:

I have no personal knowledge of plaintiff's prescriptive program. As Secretary to the Department of Corrections, I am not involved in designing a prisoner's prescriptive program. These programs are designed by the Treatment staff at the institution where a prisoner is incarcerated and not the Secretary.

5. Why is or was beneficial data omitted from plaintiff's prison files?

RESPONSE:

I have no knowledge that beneficial data was omitted from plaintiff's prison files.

6. State exactly what your prisoner rehabilitation success rate has been for the past ten years.

RESPONSE:

OBJECTION. Defendant Horn objects to this interrogatory as overbroad, burdensome, and irrelevant to plaintiff's claim; further it is unlikely to lead to the discovery of admissible evidence.

By way of further answer, this information is not routinely compiled and is not generally available.

7. For each misconduct report that plaintiff received for assault, identify each one where the alleged victim(s) was injured, hospitalized or pressed criminal charges.

RESPONSE:

I have no personal knowledge of plaintiff's misconducts. As Secretary to the Department of Corrections, I do not routinely review individual inmate misconducts.

By way of further answer, this information was already provided and is already known by the plaintiff.

8. Define exactly what good prison adjustment is.

9. Define exactly what poor prison adjustment is.

RESPONSE:

No uniform definition exists within the Department of Corrections that defines good prison adjustment or bad prison adjustment. A number of subjective factors are included in what constitutes good or bad prison adjustment; this includes misconduct status, participation in vocational and educational programs, a prisoner's adherence to a prescriptive program and other factors determined by the Treatment staff at the institution where the inmate is incarcerated.

10. What is the recidivism rate for prisoners released in the past ten years who secured favorable parole recommendations.

RESPONSE:

OBJECTION. Defendant Horn objects to this interrogatory as overbroad, burdensome, and irrelevant to plaintiff's complaint; it is unlikely to lead to the discovery of admissible evidence.

By way of further answer, this information is not routinely compiled and would not be available in any event.

11. State exactly what the rehabilitation goals of the DOC and its agents are for plaintiff.

RESPONSE:

I have no knowledge of what the exact rehabilitation goals are for the plaintiff. As Secretary to the Department of Corrections, I do not personally participate in setting individual prisoner's rehabilitation goals. It is, however, the goal of the Department of Corrections to have inmates involved in a program of self improvement which includes prescriptive programs such as education, vocational training, and other treatment related therapy.

12. Identify any and all defendants whose true identities are unknown, as indicated in the complaint, by providing their true identities.

RESPONSE:

After a review of plaintiff's complaint, I have no idea as to the identities of the unknown defendants.

13. Identify any and all documents which either directly or indirectly substantiate the answer to the complaint including the relevant defenses raised.

RESPONSE:

The following documents were used by counsel in the Answer to the Complaint:

DOC-ADM-801, 803, and 804
 Plaintiff's Prescriptive Program
 Misconduct Report No. 122000
 Grievance No. MAH-0449-98
 Grievance No. MAH-0457-98
 Misconduct Report No. 110205
 Grievance No. MAH-002-99
 Grievance No. MAH-0011-99
 Grievance No. ROC-1015-98
 Grievance No. MAH-0462-98
 Grievance No. MAH-0480-98
 Grievance No. MAH-0347-99
 Grievance No. MAH-0035-99
 Grievance - Harassed by guards
 Grievance - Chronic Health
 Grievance - Medical Staff
 Grievance - Magazines
 Grievance - Medical Care
 Grievance - Medical Staff
 Grievance - Radio Purchase

Grievance Library - West Fed. Digest
 Grievances - Order of Prescriptive Eyeglass
 Grievance - Inmate Accounting West
 Grievance - Guitar Bag
 Grievance - Mailroom Money Order
 Grievance - Money Order (\$200)
 Grievance - Medical Charges
 Grievance - Property Inventory Sheet
 Grievance - Retaliation
 Grievance - Serious asthma attacks;
 medication
 Inmate Request - Account statement for six
 months for Federal Courts
 Grievance - Legal Material
 Grievance - Books
 Grievance - Cable Fees
 Grievance - Librarian holding money
 Grievance - Law library inadequate
 Plaintiff's Notice of Board Decisions
 (Green Sheets) 11/3/95; 10/3/97; 11/18/97;
 2/1/99; and 7/7/00

14. Identify all persons to be called as witnesses at trial in this action indicating with respect to each such person the specific substance of his/her testimony and whether he/she will be called as an expert witness.

RESPONSE:

To date, witnesses other than the named defendants have not been identified by defendants' counsel.

15. What are the DOC's obligations/responsibilities to the P.B.P.P.?

RESPONSE:

The Department of Corrections' responsibilities to the Pennsylvania Board of Probation and Parole are to provide recommendation concerning an inmate's parole and facilitate the availability of inmates for the Parole Board's interviews.

16. Why does plaintiff's sentencing order state that his consecutive sentence was to begin at the minimum expiration of all his other sentences.

RESPONSE:

I have no personal knowledge what plaintiff's sentencing orders state, as I have never looked at or reviewed his sentence orders. In addition, I would have absolutely no idea of what may have been in the sentencing judge's mind at the time that her or she issued the sentencing order.

17. Explain how after 1998 plaintiff could be serving a 12½ to 25 year sentence when he served the entirety of all his concurrent sentences (five 15 year sentences and a 2 year sentence) at that juncture.

RESPONSE:

OBJECTION. Defendant objects to this request as vague. In addition, defendant Horn has no personal knowledge of the sentence or sentences which the Court imposed upon plaintiff.

18. State exactly what the penalogical and/or rehabilitative justifications are for denying plaintiff medical care for being beyond his minimum sentence.

RESPONSE:

I have no personal knowledge of the medical care plaintiff has received or that the plaintiff has been denied medical care. I am not aware that being beyond his minimum sentence has ever been a penalogical or rehabilitative basis for denying medical care.

19. State exactly when plaintiff became eligible for prerelease programs.

RESPONSE:

See DC-ADM 805 which sets forth the Department's general policy on Pre-release.

20. Explain exactly what the policies/practices/procedures/regulations are for disciplinary proceedings (including appeals thereof and review of same).

RESPONSE:

See DC-ADM 801.

D. MICHAEL FISHER
Attorney General

BY:


MARYANNE M. LEWIS
Deputy Attorney General

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section

Office of Attorney General
Litigation Section
15th FL, Strawberry Square
Harrisburg, PA 17120
(717) 787-9719

DATED: December 21, 2000

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CHARLES ISELEY
Plaintiff

Civil Action No.
1:CV-00-0577

^{v.}
~~MARTIN BUSH~~ CONWAY BUSHLEY, et al,
Defendants

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served the
foregoing Supplemental Brief for Motion to Compel
Discovery by mailing a copy of same to:

Maryanne Lewis, Esq.
Office of Atty Gen.
Strawberry Sq. 15th Fl
Harrisburg, PA 17120

Date: January 30, 2001

Charles Isely